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To: Examiner Jonathan Crepeau at the
U.S. Patent Office From: Thomas E. Loop

Fax: 571-273-1299 Pages: 3 (Including cover sheet)

Phone: Date: October 12, 2004

Re: U.S. Application No. 10/613,784 Cc:
Terminal Disclaimer
Applicant: Neah Power Systems, Inc.

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply

Hard Copy: ☐ (to follow) ☒ (retained)

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I hereby certify that on the date specified below, this correspondence is being deposited via facsimile (571) 273-1299 to Examiner Jonathan Crepeau at the U.S. Patent Office.

October 12, 2004
Date

Cori N. Lanman
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No.: 10/613,784 Confirmation No.: 7001
Applicant: NEAH POWER SYSTEMS, INC.
Filed: July 7, 2003
Title: Fuel Cells Having Silicon Substrates and/or Sol-Gel Derived Support Structures
TC/A.U.: 1746
Examiner: Jonathan Crepeau
Docket No.: 690089.401D1
Cust. No.: 31740
Mail Stop Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER

Sir:

The owner, Neah Power Systems, Inc., of 100% interest in the present application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the present application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on parent Application No. 09/715,830, filed on November 17, 2000 (now U.S. Patent No. 6,641,948). The owner hereby agrees that any patent so granted on

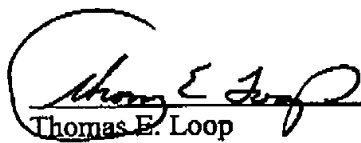
the present application shall be enforceable only for and during such period that it and any patents granted on the other application are commonly owned. This agreement runs with any patents granted on the present application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the present application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the other application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims canceled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney of record. Please charge any deficiency in payment and/or credit any overpayment in fees to Deposit Account No. 02-0915.

Respectfully submitted,

BARNARD, LOOP & McCORMACK LLP



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